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BSH HOME APPLIANCES CORPORATION
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EXAMINER

GOLIGHTLY, ERIC WAYNE

ART UNIT	PAPER NUMBER
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1714

NOTIFICATION DATE	DELIVERY MODE
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10/17/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

Office Action Summary

Application No.

10/583,695

Applicant(s)

BEER ET AL.

Examiner

ERIC GOLIGHTLY

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 15-28 is/are pending in the application.
- 5a) Of the above claim(s) 26-28 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 15-25 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☒ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 20 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-943)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20 June 2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Election/Restrictions

1. Applicants' election with traverse of Group I (claims 15-28) in the reply filed on 7/29/2011 is acknowledged. The traversal is on the ground(s) that examination of all groups would not present a serious burden. This is not found persuasive because lack of serious burden is a factor for restriction under US practice, whereas the present claims have been restricted under PCT practice lack on unity. Though not germane to the issue of restriction here, it is noted that applicants' assertion is not true. While there may be overlap in the search of the inventions applicants have chosen to include in the present application, by no means do the inventions require the same search or even search in all of the same classes. In actuality, the inventions would require specialized individual searches that would be best executed in individual applications. Applicants' attention is drawn to the fact that the search for method claims requires the identification of processing steps, while the search for apparatus claims requires the identification of structural elements.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 26-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Claims 1-14 are cancelled.

Information Disclosure Statement

3. The information disclosure statement filed 6/20/2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Namely, it does not include a concise explanation of relevance for DE 2013716, DE 2823493, DE 3021755, DE 2848375 and DE 2733576. It has been placed in the application file, but the information referred to therein has not been considered. DE 2013716 has been considered to the extent it can be understood from an EPO machine translation, attached herein.

Drawings

4. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicants will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. Applicants are reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

6. Applicants are reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

7. The abstract of the disclosure is objected to because it does not include the process steps and refers to the purported merits of the invention. Correction is required. See MPEP § 608.01(b).

8. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicants' use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

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- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward

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the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

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- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

9. The disclosure is objected to because it should include the section headings discussed above.

Appropriate correction is required.

Claim Objections

10. Claim 20 is objected to because the word “fed” in line 2 should apparently be replaced with “feed”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 18 and 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Claim 18 recites the limitation "the feed valve" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the fed valve" [sic] in line 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 21, the term "preferably" in line 3 renders the claim indefinite because it is unclear whether the limitations following the term are part of the claimed invention. See MPEP § 2173.05(d). It appears that the intended meaning may be that the limitations following "preferably" are not a required part of the claimed method, and this meaning will be used for purposes of examination.

Regarding claim 22, the phrase "the quantity ... used for one part program step ... is successively reduced during the relevant part program step" in lines 1-3 renders the claim indefinite because it is not clear what this means. It appears that the intended meaning may be that the quantity is reduced during the step, and this meaning will be used for purposes of examination.

Regarding claim 23, the term "preferably" in line 3 renders the claim indefinite because it is unclear whether the limitations following the term are part of the claimed invention. See MPEP § 2173.05(d). It appears that the intended meaning may be that the limitations following "preferably" are not a required part of the claimed method, and this meaning will be used for purposes of examination.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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14. Claims 15, 21-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0998872 to Favret (hereinafter "Favret").

Regarding claim 15, Favret teaches a method for operating a dishwasher (abstract) and discloses executing a wash program composed of the steps of pre-wash (col. 4, line 15), clean (col. 4, line 16), intermediate rinse (col. 4, line 16), clear rinse (col. 4, line 17) and dry (col. 4, line 19), wherein a recirculation pump (Fig. 1, ref. 10 and col. 3, lines 21 and 22) and a drain pump (Fig. 1, ref. 5 and col. 3, line 27), or lye pump for pumping away washing liquid from the dishwasher, are operated in an alternating manner (col. 4, lines 11 and 24, col. 4, line 37 to col. 5, line 31, and note Fig. 2) during a step (col. 6, lines 13-19). It is noted that Favret discloses the dishwasher used in the method comprises the structural features of a washing container (Fig. 1, ref. 4 and col. 3, line 26), a spray device (Fig. 1, ref. 11 and col. 3, line 33) receiving washing fluid from the recirculation pump and for acting upon items to be washed which are located in the washing container.

Regarding claim 21, Favret discloses the method wherein during a step washing liquid is removed from the dishwasher (col. 4, lines 56 and 57).

Regarding claim 22, Favret discloses the method wherein the quantity of washing liquid used during a step is reduced during the step (col. 4, lines 56-58).

Regarding claim 23, Favret discloses the method wherein in the course of a step the washing liquid is substantially completely removed from the dishwasher (col. 6, lines 5-10).

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Regarding claim 25, Favret discloses the method wherein the capacity of the recirculation pump can be varied (col. 5, lines 30 and 31). Note the recirculation pump speed is also varied when the pump is de-energized (col. 5, lines 1 and 2), since the speed changes to zero.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicants are advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the

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examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

18. Claims 17-19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Favret (EP 0998872).

Regarding claim 17, Favret discloses supplying water during a rinse step (col., 4, lines 16 and 17) but is silent regarding the water being fresh water. The skilled artisan would have found it obvious to use water that is fresh water in order to inhibit the rinsed articles from being contaminated with debris from dirty water.

Regarding claim 18, Favret discloses operating the circulation pump and then discloses admitting rinsing water into the dishwasher (col. 4, lines 37, 38, 50 and 51), but is silent regarding the water being fresh water, the water being added via a feed valve and the water being added during operation of the recirculation pump. The skilled artisan would have found it obvious to use water that is fresh water in order to inhibit the rinsed articles from being contaminated with debris from dirty water. The use of feed valves was known in the art at the time of the invention and the skilled artisan would have found it obvious to use a feed valve for adding water in order to enhance the flow control of the water. Further the skilled artisan would have found it obvious to operate the recirculation pump during the addition of the water in order to enhance the speed and distribution of the rinsing.

Regarding claim 19, Favret discloses admission of washing liquid (col. 4, line 10) and then immediately discloses operation of the recirculation pump (col. 4, line 11), but

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is silent regarding the operation of the recirculation pump being during the admission of the washing fluid. The skilled artisan would have found it obvious to operate the recirculation pump during the admission of the washing fluid in order to enhance the speed of the washing step and distribution of the washing fluid and due to the close proximity of the teachings in Favret.

Regarding claim 24, Favret discloses the method wherein the washing liquid is substantially completely removed from the dishwasher (col. 6, lines 5-10), but is silent regarding substantially completely changing out the washing liquid after each step. The skilled artisan would have found it obvious to substantially completely changing out the washing liquid after each step in order to thoroughly remove contaminants from the dishwasher, thereby enhancing the cleaning of dishes.

19. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Favret (EP 0998872) in view of DE 2013716 to Bosch (note EPO machine translation and hereinafter "Bosch").

Regarding claim 16, Favret is silent regarding the method wherein the recirculation pump and lye pump are operated simultaneously during a step. Bosch teaches a method of operating a dishwasher (EPO machine translation, page 1, paragraph beginning "Dishwasher") including operating a recirculation pump and a drain pump simultaneously (EPO machine translation, page 1, paragraph beginning "This is thus" and paragraph bridging pages 1 and 2), which is disclosed as advantageously inhibiting clogging (EPO machine translation, page 1, paragraphs beginning "The

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invention" and "This is advantageous", and page 2, first full paragraph). When faced with the problem of clogging, it would have been obvious to one of ordinary skill in the art at the time of the invention to simultaneously operate the recirculation pump and lye pump during a step in the method of the Favret method as in the method of the Bosch teaching in order to inhibit clogging.

Regarding claim 20, Favret is silent regarding the method wherein during operation of the lye pump a feed valve is opened simultaneously in order to admit fresh water into the dishwasher. Bosch discloses opening a feed valve (EPO machine translation, paragraph bridging pages 1 and 2, ref. 3) admitting fresh water into a dishwasher during operation of a drain pump (EPO machine translation, page 1, paragraph beginning "This is thus", which is disclosed as advantageously inhibiting clogging (EPO machine translation, page 1, paragraphs beginning "The invention" and "This is advantageous", and page 2, first full paragraph). When faced with the problem of clogging, it would have been obvious to one of ordinary skill in the art at the time of the invention to simultaneously operate the lye pump during admitting fresh water via a feed valve in the method of the Favret method as in the method of the Bosch teaching in order to inhibit clogging.

Conclusion

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC GOLIGHTLY whose telephone number is

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(571)270-3715. The examiner can normally be reached on Monday to Thursday, 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on (571) 272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric Golightly/
Examiner, Art Unit 1714